

§ 458.89

(15) days after service of the recommended decision and order: *Provided, however*, That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 458.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.

(a) Exceptions to an Administrative Law Judge's recommended decision and order shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's recommended decision and order to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 458.90 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in

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support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions may be filed with the Assistant Secretary within ten (10) days after service of the exceptions.

§ 458.91 Action by the Assistant Secretary.

(a) After considering the Administrative Law Judge's recommended decision and order, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as he deems appropriate: *Provided, however*, That unless exceptions are filed which are timely and in accordance with § 458.89, the Assistant Secretary may, at his discretion, adopt without discussion the recommended decision and order of the Administrative Law Judge, in which event the findings, conclusions, and recommendations of the Administrative Law Judge, as contained in his recommended decision and order, shall, upon appropriate notice to the parties, automatically become the decision of the Assistant Secretary.

(b) Upon finding a violation of the CSRA, FSA or this part, the Assistant Secretary may order the respondent to cease and desist from such violative conduct and may require the respondent to take such affirmative action as he deems appropriate to effectuate the policies of the CSRA or FSA.

(c) Upon finding no violation of the CSRA, FSA or this part, the Assistant Secretary shall dismiss the complaint.

[45 FR 15158, Mar. 7, 1980. Redesignated and amended at 50 FR 31311, Aug. 1, 1985]

§ 458.92 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary, within a specified period, that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he shall refer the matter for appropriate action to the Federal Labor Relations

Authority (in the case of labor organizations covered by the CSRA), the Foreign Service Labor Relations Board (in the case of labor organizations covered by the FSA), or the Board of Directors of the Office of Compliance (in the case of labor organizations covered by the Congressional Accountability Act).

[62 FR 6094, Feb. 10, 1997]

§ 458.93 Stay of remedial action.

In cases involving violations of this part, the Assistant Secretary may direct, subject to such conditions as he deems appropriate, that the remedial action ordered be stayed.

PART 459—MISCELLANEOUS

Sec.

459.1 Computation of time for filing papers.

459.2 Additional time after service by mail.

459.3 Documents in a proceeding.

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459.5 Rules to be construed liberally.

AUTHORITY: 5 U.S.C. 7120, 7134; 22 U.S.C. 4117; 2 U.S.C. 1351(a)(1); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 45 FR 15165, Mar. 7, 1980, unless otherwise noted. Redesignated at 50 FR 31311, Aug. 1, 1985.

§ 459.1 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by the regulations contained in part 458 of this subchapter, the day of the act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. When the period of time prescribed or allowed is seven (7) days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When these regulations require the filing of any paper, such document must be received by the Assistant Secretary or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such

filing or extension of time that may have been granted.

§ 459.2 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to these regulations within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, five (5) days shall be added to the prescribed period: *Provided, however,* That five (5) days shall not be added if any extension of time may have been granted.

§ 459.3 Documents in a proceeding.

(a) *Title.* Documents in any proceeding under part 458 of this subchapter, including correspondence, shall show the title of the proceeding and the case number, if any.

(b) *Signature.* The original of each document required to be filed under these regulations shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party, and shall contain the address and telephone number of the person signing it.

§ 459.4 Service of pleading and other papers under this subchapter.

(a) *Method of service.* Notices of hearing, decisions, orders and other papers may be served personally or by registered or certified mail or by telegraph. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail.

(b) *Upon whom served.* All papers, except as herein otherwise provided, shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or by law and upon the Assistant Secretary, or his designated officer, or agent or Administrative Law Judge where appropriate. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

§ 459.5 Rules to be construed liberally.

(a) The regulations in this subchapter may be construed liberally to